

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matters of)	
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New Part 4 of the Commission’s Rules Concerning Disruptions to Communications)	ET Docket No. 04-35
)	
Consumer Protection in the Broadband Era)	WC Docket No. 05-271
)	
Broadband Data Improvement Act)	GN Docket No. 09-47
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act)	GN Docket No. 09-137
)	

COMMENTS

The Alliance for Telecommunications Industry Solutions (ATIS) hereby submits these comments on behalf of its Network Reliability Steering Committee (NRSC) in response to the July 2, 2010, *Public Notice* seeking comment on whether the Commission should expand its Part 4 rules to apply to interconnected Voice over Internet Protocol (VoIP) service providers and broadband Internet Service Providers (ISP). ATIS does not believe that the Commission’s Part 4 outage reporting rules should be applied to VoIP providers or broadband ISPs. However, if the Commission were to implement an outage reporting program for these providers, ATIS believes that it should be implemented only on a voluntary basis.

I. Background

ATIS is a global standards development and technical planning organization that leads, develops and promotes worldwide technical and operations standards for information, entertainment and communications technologies. ATIS' Board of Directors - comprised of chief technology officers and senior-most executives, directs and implements strategic initiatives impacting ATIS, its membership and the larger industry.

ATIS' diverse membership includes key stakeholders from the information and communications technologies industry –wireless and wireline service providers, equipment manufacturers, competitive local exchange carriers, providers of commercial mobile radio services, broadband providers, software developers, consumer electronics companies, digital rights management companies, and internet service providers. Nearly 600 industry subject matter experts work collaboratively in ATIS' 18 open industry committees, which develop standards, specifications, best practices, guidelines and other approaches as deemed essential to communications networks' operation and continued evolution.

The ATIS NRSC strives to improve network reliability by providing timely consensus-based technical and operational expert guidance to all segments of the public communications industry. The NRSC addresses network reliability improvement opportunities in an open environment and advises the communications industry through the development of standards, technical requirements, technical reports, bulletins, Best Practices, and annual reports. The NRSC is comprised of industry experts with primary responsibility for examining, responding to and preventing outages for communications companies.

II. The Commission Should Not Extend its Part 4 Outage Reporting Rules to Broadband

In the *Public Notice*, the Commission acknowledges the importance of broadband technologies and seeks comment on whether to expand the Commission's Part 4 outage reporting rules to interconnected VoIP service providers and broadband ISPs. While ATIS agrees that broadband technologies are important and carry vital communications, ATIS does not believe that the Commission should extend its outage reporting rules to these technologies for the reasons explained below.

ATIS does not believe that there has been a demonstrated need for additional reporting obligations pertaining to outages affecting VoIP service providers or broadband ISPs. There has been no indication that the industry has failed to address broadband reliability or that service providers are not designing their networks for high resiliency and availability. In fact, the industry has designed and implemented reliable and robust networks that have allowed end users to entrust vital communications to these networks. Broadband networks, for example, allow providers to maintain control and dynamically react to congestion or outages and interconnected VoIP service providers' engineer their networks to be self-healing. As such, a problem within the broadband platform may not impact the network or its end users because packet technology has the ability to route packets around a failure point. Broadband providers also invest heavily in their networks and are constantly updating security, reliability and survivability technologies to protect their networks and end user communications. Finally, the competitive nature of the US broadband market, which offers customers choices in wireline and wireless broadband

providers, provides a further incentive for broadband providers to proactively monitor their networks and to act promptly to mitigate disruptions and to quickly restore service.¹

The industry also works collaboratively through the ATIS NRSC and other industry organizations to examine potential network vulnerabilities to enhance the reliability of communications networks. This work, which results in the development of industry best practices, guidelines, standards and specifications, allows the industry to react quickly and effectively to new technologies and to new threats. ATIS believes that expanding outage reporting requirements to VoIP providers and/or broadband ISPs will not assist the industry in this effort. Rather, the creation of new rules will divert resources from the existing cooperative efforts and may ultimately stagnate the efforts to interpret and implement new requirements.²

Further, the expansion of outage reporting requirements to VoIP and broadband ISPs may not accurately reflect the reliability of broadband networks or offer useful data. The broadband network is vastly different than the traditional public switched network in that an end user's perception of performance and reliability is significantly dependent on end user equipment. A failure in end user equipment or software can easily appear to that user as a network outage, despite the fact that there is no specific network impairment.

¹ The National Broadband Plan at pp. 37, 39.

² In the *Public Notice*, the Commission acknowledges that it had previously sought input on the expansion of its outage reporting rules to broadband ISPs but that there was virtually no record on "how the data would assist operators in learning from one another's experiences." *Public Notice* at p.2, n.7. ATIS agrees that this is a laudable goal but cautions that such a goal may be frustrated by the expansion of mandatory outage reporting to VoIP and/or broadband ISPs.

III. If an Outage Reporting Program Is Implemented, It Should be Voluntary in Nature and Developed Through Close Cooperation with the Industry

While ATIS does not believe that there is a need to expand the current Part 4 outage rules to interconnected VoIP service providers and broadband ISPs, ATIS notes that, if a reporting program were to be adopted, it must be voluntary and developed through close cooperation with the industry.

The current inquiry by the Commission is another example of the Commission attempting to apply its legacy regulatory framework to next generation services. In the past, the Commission has treated the industry as an adversary that did not share a common vision regarding network security and reliability. However, this approach ignores the fact that the industry has strong incentives to build and maintain reliable secure systems and the fact that the industry has a history of cooperation in the development of standards, best practices, etc. focused on enhancing security and reliability.

ATIS strongly believes that collaboration with the industry is a more efficient way to develop voluntary outage reporting rules for VoIP and broadband ISPs when compared with a rulemaking. The adversarial nature of a rulemaking is less effective than a consensus-based industry process approach would be in encouraging industry experts to discuss technical issues. In any reporting program established for broadband networks, significant technical input would be necessary, first to define initial reporting requirements and then to refine/evolve these requirements to meet changing needs and new technologies.³ In addition, as ATIS has documented many times before, unnecessary

³ For instance, industry expertise will be necessary to define what a broadband outage is and what it is not. ATIS believes that any definition must be clear, objective and permit an “apples to apples” comparison between outages affecting different networks. ATIS therefore has significant concerns about proposals to define outages in terms of “generally useful connectivity” or other criteria that may be subjective in nature.

regulatory mandates can disrupt ongoing industry work. In the area of reliability, security and survivability, there is significant and effective industry work that must not be disrupted.

If this collaborative effort were to demonstrate a need for a VoIP and/or broadband ISP outage reporting program, ATIS strongly believes that the resulting program must be voluntary. Only a voluntary program could provide the necessary flexibility to permit VoIP/broadband ISP outage reporting that could keep up with and respond to the rapid changes the industry is experiencing. Moreover, a voluntary program would allow the industry and Commission to benefit from the industry's experience in submitting outage reports. A mandatory program established under Part 4 of the Commission's rules, on the other hand, would be more rigid and would not necessarily reflect the current state of the network but would be based on the state of the network at a particular point in time.

The existing outage reporting requirements are a good example of this problem. In the last five (almost six) years, it has become apparent to industry members that certain types of outages (for instance, those that impact less than three DS3's, copper cables, or pair gain systems) do not provide any glimpse into terrorist activity or threats to homeland security. The industry believes that these types of events should be provided to the Commission in a more controlled fashion, such as via a monthly or quarterly electronic report. These less significant outages require the same level of effort to manage internally as the larger more significant outages do. The industry has also found that the 120 minute reporting threshold presents an undue burden in many circumstances, particularly during large-scale outages when it is often difficult for carriers to fully and accurately assess the large-scale impacts within this two hour window and when service providers should be focusing their full attention on the expeditious restoration of service to customers. Further,

as a result of the existing outage reporting rules being mandatory and established by regulation, the requirements cannot easily be updated to reflect the Commission's or the industry's experience. Instead, a formal petition for rulemaking would be necessary to suggest changes to address issues like these.

ATIS believes that that there are two models that the Commission should consider in developing a voluntary reporting program. The processes followed by the Commission with regard to the development of the Disaster Information Reporting System (DIRS) and hearing aid compatibility (HAC) data collection rules are examples of how industry expertise can be effectively leveraged to develop data collection rules and processes.

- **DIRS.** The Commission sought industry input early in the development and testing of DIRS, a web-based information system through which service providers voluntarily submit daily status updates on critical infrastructure and service outages during government-declared disasters and national emergencies. During collaborative meetings, the Commission and industry developed data sets that could be effectively and efficiently collected and reported during real time disaster events. These efforts resulted in the quick development of a fully functional system.
- **HAC.** The Commission also worked closely with the industry in refining the reporting requirements associated with the Commission's hearing aid compatibility rules, which require wireless device manufacturers and service providers to report on the number of devices in their portfolios that are HAC.⁴ Listening to technical and practical considerations noted by the industry, the Commission made significant improvements to its reporting rules that benefited all stakeholders.

Finally, ATIS recommends that, if the Commission were to establish a voluntary reporting program for VoIP providers or broadband ISPs, it should take steps to accurately assess the burden imposed on the industry before implementation and to limit data collection only to that information that is necessary and already available to the industry.⁵

⁴ Section 20.19 of the Commission's Rules.

⁵ ATIS notes that the Commission has underestimated the burden associated with the existing reporting requirements. See ATIS Letter to Paul de Sa, Chief of the Commission's Office of Strategic Planning and Policy Analysis, dated September 23, 2009. For instance, the Commission had initially estimated that the

As noted above, the industry's experience with the existing reporting requirements has indicated that there are requirements that are unnecessarily burdensome. ATIS strongly urges the Commission to avoid imposing these unnecessary obligations on VoIP service providers or broadband ISPs.

If a reporting program were implemented for VoIP service providers and broadband ISPs, ATIS urges the Commission to ensure that any data provided be protected as confidential. Such protection is critical because, as the Commission noted in its 2004 *Report and Order* adopting the current outage reporting rules, “[t]he disclosure of outage reporting information to the public could present an unacceptable risk of more effective terrorist activity” and possible use of this data by hostile parties to attack communications networks.⁶ ATIS also urges the Commission to resolve the open issue regarding state access to outage data before deciding to establish a program for broadband outage reporting.⁷ In particular, ATIS urges the Commission to ensure that any state access to NORS outage reporting data is contingent on certification by the state indicating that it can adequately protect such critical data.⁸

total number of outage reports from all reporting sources combined would be substantially less than 1,000 annually. In reality, the total number of reports filed is substantially higher, with a single large carrier filing more than five times that number (or 5,000 outage reports in a single year). The Commission also estimated the Total Annual Burden associated with the reporting rules to be 1,040 hours, and the Total Annual Costs to be \$41,600. These figures also significantly underestimate the burden to service providers, which could spend from 5,000 to 54,000 hours per year on outage reporting at a cost of between \$300,000 and \$5 million.⁶ *Report and Order and Further Notice of Proposed Rulemaking*, ET Docket No. 04-35 (rel. August 4, 2004) at ¶3.

⁷ *Petition for Rulemaking*, ET Docket No. 04-35, RM-11588, filed November 12, 2009, by the California Public Utilities Commission and the People of the State of California (*CA PUC Petition*).

⁸ See ATIS Comments, filed March 19, 2010, in response to *CA PUC Petition*. As explained more fully in its comments and reply comments in response to the *CA PUC Petition*, ATIS also believes that other appropriate safeguards should be adopted pertaining to access to and use of outage reporting data by states.

IV. Conclusion

While ATIS supports the Commission's ongoing efforts to ensure that communications networks, both legacy and next generation, are reliable, ATIS does not believe that the Commission's Part 4 outage reporting rules should be applied to interconnected VoIP providers or broadband ISPs. However, if the Commission were to implement an outage reporting program for these providers, ATIS urges that the program should be voluntary and developed in close collaboration with the industry.

Respectfully submitted,

Alliance for Telecommunications Industry Solutions

By:



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